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LT. GOVERNOR

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SECRETARY

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*  
*Fire Safety Commission*

*Automatic Sprinkler Appeals Board*

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MAURICE M. PILETTE  
CHAIRMAN

RODERICK J. FRASER, JR.  
VICE CHAIRMAN

**Docket # 2012-08**  
**314 Main Street**  
**Oxford, Massachusetts**

**AUTOMATIC SPRINKLER APPEALS BOARD**  
**DECISION AND ORDER**

**A) Statutory and Regulatory Framework**

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A; Chapter 148, section 26G½ and Chapter 6, section 201, relative to a determination of the Oxford Fire Department, requiring the installation of an adequate system of automatic sprinklers in a building owned and/or operated by Susan Gallant, hereinafter referred to as the Appellant. The building, which is the subject of the order, is located at 314 Main Street, Oxford, MA, and features an establishment operated under the name of "The Oxford Tavern."

**B) Procedural History**

By written notice received by the Appellant on February 2, 2012, the Oxford Fire Department issued an Order of Notice to the Appellant requiring the installation of an adequate system of automatic sprinklers in the subject building in accordance with the provisions of M.G.L c. 148, s. 26G½. The Appellant filed an appeal of said Order on March 12, 2012. The Board held a hearing relative to this appeal on April 11, 2012, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was: Susan Gallant, owner/manager of the facility. Appearing on behalf of the Oxford Fire Department was Chief Sheri R. Bemis, Fire Inspector Kenneth Sellers, and Oxford Building Commissioner, Adelle Reynolds.

Present for the Board were: Thomas Coulombe, Chairman Pro Tem; Maurice M. Pilette; Bart J. Shea; Alexander MacLeod; Peter Gibbons; Aime R. DeNault; and George A. Duhamel. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

**C) Issue(s) to be Decided**

Whether the Board should affirm, reverse or modify the determination of the Oxford Fire

Department requiring the installation of an automatic system of sprinklers in the subject building in accordance with the provisions of M.G.L. c.148, s. 26G½?

**D) Evidence Received**

1. Application for Appeal by Appellant
2. Statement in Support of Appeal
3. Order of Notice of the Oxford Fire Department
4. Current Floor Plan of Facility submitted by Appellant
5. Old Floor Plan of Facility submitted by Appellant
6. Notice of Hearing to Appellant
7. Notice of Hearing to the Oxford Fire Department
8. Copies of two Memoranda that accompany hearing notices
9. Appellant's Letter and diagram of facility (pages 1 and 2)
10. New and renewed Certificate of Inspection from the Oxford Fire and Building Departments (items A-C)

**E) Subsidiary Findings of Fact**

- 1) By notice received by the Appellant on February 2, 2012, the Oxford Fire Department issued an Order of Notice to the Appellant requiring the installation of an adequate system of automatic sprinklers in a building located at 314 Main Street, Oxford in accordance with the provisions of M.G.L. c. 148, s. 26G½. The Appellant filed an appeal of said order on March 12, 2012. The Board held a hearing relative to this appeal on April 11, 2012, at the Department of Fire Services, Stow, Massachusetts.
- 2) The subject building is a two-story structure, with a business located on the first floor and an apartment on the second floor. The business, operated under the name of "The Oxford Tavern," also utilizes the basement for storage purposes. The Appellant stated that she commenced business operations in September 2006.
- 3) The facility houses a bar, dance floor/area, DJ booth, stage and several pool tables. Testimony indicated that music, in the form of live entertainment and/or recording, is routinely featured for viewing and dancing purposes. The establishment, consistent with its name and décor, clearly feature characteristics typical of both a bar and a nightclub establishment.
- 4) Documents provided at the hearing indicate that the business portion of this building is classified as an "A-2" use group classification under the State Building Code (780 CMR). There was also information provided at the hearing that the building has an occupant load of either 98, 152 or 175. The occupant loads were previously established and vary depending upon whether or not a "fire curtain" was used to separate and limit certain interior portions of the establishment. Both parties indicated that the fire curtain is no longer used. The Appellant indicated that she has modified the business operation to attract younger customers who seek musical entertainment and dancing.

- 5) The Appellant indicated that the establishment uses certified/trained crowd managers in accordance with the State Fire Code to assure safety and to monitor the number of patrons in the business and to maintain capacity under 100 persons.
- 6) Both parties stipulated that the facility is clearly being used and occupied as a bar or nightclub with an occupancy over 100 persons and that the facility is subject to the enhanced sprinkler requirements of M.G.L. c. 148, s. 26G½.
- 7) At the hearing the Appellant indicated the need for an extension of time to November 2013, to complete the installation of the required sprinkler system. She indicated that she had contacted Orsi Sprinkler Company for a cost estimate, which was approximately \$50,000.00. In addition to the cost of the actual system installation, this amount also includes additional expenses associated with a new connection to town water located on the opposite side of Main Street.
- 8) The representatives of the Oxford Fire and Building Departments did not oppose such an extension of time to do the work. However, they expressed fire safety concerns pending final installation. The Fire Chief recommended a fire detail if the occupant load exceeds 100 persons, in particular during such time when bands are performing.

**F) Ultimate Findings of Fact and Conclusions of Law**

- 1) The provisions of the 2<sup>nd</sup> paragraph of M.G.L. c. 148, s. 26G½, in pertinent part states: “every building or structure, or portions thereof, of public assembly with a capacity of 100 persons or more, that is designed or used for occupancy as a nightclub, dance hall, discotheque, bar, or similar entertainment purpose...(a) which is existing or (b) for which an approved building permit was issued before December 1, 2004, shall be protected throughout with an adequate system of automatic sprinklers in accordance with the state building code”. The law was effective as of November 15, 2004.
- 2) Based upon the evidence submitted at the hearing, including the stipulations of the parties, this facility and its use and occupancy, as described, is a bar or nightclub with an occupancy over 100 persons. Accordingly the facility is subject to the enhanced sprinkler requirements of M.G.L. c. 148, s. 26G½.
- 3) Based upon the circumstances and facts submitted at the hearing, the board finds that a reasonable extension of time to complete this installation is warranted. The Board notes that the provisions of s. 26G½, include a provision to allow such an extension under certain circumstances. Such extensions may include reasonable conditions to protect patrons pending completion of the installation.

**G) Decision and Order**

Based upon the evidence presented at the hearing and for the foregoing reasons, this Board unanimously **upholds** the Order of the Oxford Fire Department, requiring the Appellants to install an adequate system of sprinkler protection in the subject building in accordance with the provisions of M.G.L. c.148, s. 26G½. An adequate system of automatic sprinklers shall be installed throughout that portion of the building associated with use as a bar and/or nightclub (first floor and basement), in accordance with the following terms and conditions:

- The existing fire alarm system shall be enhanced with a supervised and monitored system (UL central station) within 30 days of the date of decision. An updated alarm test report shall be provided to the Head of the Fire Department upon completion of said installation;
- Plans for the installation of an adequate sprinkler system (first floor and basement portions) shall be submitted to the Head of the Fire Department no later than 90 days from the date of this decision;
- The planned water main shall be installed no later than May 1, 2013;
- The installation of an adequate sprinkler system shall be completed by September 1, 2013. An extension of time no later than November 1, 2013, may be allowed by the Head of the Fire Department if such an extension is necessary and the delay has not been caused by the actions of the Appellant; and
- The Appellant shall maintain the occupant load at under 100 persons until such time that sprinklers are installed. The Appellant may exceed 100 persons only upon application for and receipt of a written permit issued by the Head of the Fire Department, in consultation with the Building Inspector, who may set reasonable terms and conditions to protect against fire and preserve public safety.

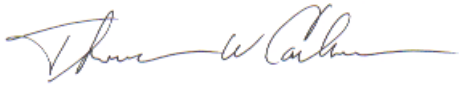
**H) Vote of the Board**

Thomas Coulombe, Chair Pro Tem.	In Favor
Maurice M. Pilette,	In Favor
Bart J. Shea, Acting Deputy/Fire Marshal, City of Boston	In Favor
Alexander MacLeod	In Favor
Peter E. Gibbons	In Favor
Aime DeNault	In Favor
George Duhamel	In Favor

**I) Right of Appeal**

You are hereby advised that you have the right, pursuant to section 14 of chapter 30A of the General Laws, to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order.

SO ORDERED,

A handwritten signature in blue ink, appearing to read 'Thomas W. Coulombe', written in a cursive style.

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Thomas Coulombe, Chair Pro Tem.

Dated: May 23, 2012

**A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:**

Susan Gallant  
c/o The Oxford Tavern  
314 Main Street  
Oxford, Massachusetts 01540

Chief Sheri Bemis  
Oxford Fire Department  
181 Main Street  
Oxford, Massachusetts 01540